

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 HILLARY WALLS-STEWART,

11 Plaintiff,

12 v.

13 ERIN LYSTAD, et al.,

Defendants.

CASE NO. C16-5747-RBL

ORDER GRANTING PLAINTIFF'S
MOTION FOR DISMISSAL

DKT. #4

14 THIS MATTER is before the Court on Plaintiff Hillary Walls-Stewart's Voluntary
15 Motion for Dismissal [Dkt. #4]. Walls-Stewart, who is incarcerated at Stafford Creek
16 Corrections Center, alleges Defendants have not adequately treated her pain caused by a
17 fractured screw in her foot in violation of her Eighth Amendment rights.

18 The Plaintiff may dismiss an action without a court order by filing a notice of dismissal
19 before the opposing party serves either an answer or a motion for summary judgment. *See* Fed.
20 R. Civ. Pro. 41(a)(1)(A)(i). Such a dismissal is without prejudice unless the plaintiff has
21 previously dismissed an action involving a similar claim, in which case the dismissal operates as
22 an adjudication on the merits. *See id.* at 41(a)(1)(B).

1 Defendants have not appeared. Walls-Stewart has brought many actions (Case Nos.:
2 3:03-CV-5470-RJB, 3:12-CV-5206, 3:12-CV-5381-RBL, 3:12-CV-5468-BHS, 3:12-CV-5684-
3 BHS-DWC, 2:13-CV-1549, 2:13-CV-1592-RAJ) but none involving this claim. Her Motion for
4 Dismissal [Dkt. #4] is GRANTED. Her claims are DISMISSED without prejudice. Magistrate
5 Judge David W. Christel's Report & Recommendation [Dkt. #3], noted for September 30, 2016
6 and denying Plaintiff's Motion to Proceed *in Forma Pauperis*, is MOOT. The Court therefore
7 DECLINES to adopt it.

8 IT IS SO ORDERED.

9 Dated this 19th day of September, 2016.

10 
11 Ronald B. Leighton

12 Ronald B. Leighton
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24